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Situation of human rights in Belarus*

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on the situation of human rights in Belarus, Miklós Haraszti, submitted in accordance with Human Rights Council resolution 32/26.

* The present report was submitted after the deadline to take into account information received by the Special Rapporteur during his trip to Minsk in July 2017.

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Report of the Special Rapporteur on the situation of human rights in Belarus

Summary

The present report is submitted by the Special Rapporteur on the situation of human rights in Belarus in accordance with Human Rights Council resolution 32/26.

The report examines the relationship between the unique features of governance of Belarus and its situation of human rights. It concludes that one of the main structural reasons for both the entrenched systemic abuse of human rights and the cyclical waves of mass repression in the country is that all powers are assumed by the executive branch, chiefly the President and the presidential administration. Although the Constitution provides for the separation of powers and respect for human rights, the reality is a monolithic power structure with laws and governance aimed at maintaining the concentration of powers and an absence of effective human rights guarantees. As a result, improvements are made only temporarily and at the margins, while the oppressive might of governance through centralization erupts from time to time into massive crackdowns on those attempting to exercise their rights.

The recent cases of human rights abuses described in the report testify to the effects of the uptake by the President and the presidential administration of the powers of both the legislative branch and the judiciary. The severe crackdown on the massive peaceful demonstrations in February and March 2017, including the arrest and then the release of a new set of political prisoners, mirrored the violence of 2010.

The Special Rapporteur makes recommendations to improve the human rights situation in Belarus in line with the country's international obligations.

I. Introduction

A. Background

1. The mandate of the Special Rapporteur on the situation of human rights in Belarus was established by the Human Rights Council in its resolution 20/13 in response to the wave of mass arrests and the crackdown by law enforcement officials in Belarus in the aftermath of the presidential elections of 2010. The Special Rapporteur assumed his functions on 1 November 2012. On 23 June 2017, in its resolution 35/27, the Council extended the mandate for one year.

2. In his most recent report to the Human Rights Council (A/HRC/35/40), the Special Rapporteur provided an account of the worsening situation of human rights in Belarus, in particular following the large-scale organized repression in March 2017 of protesters who were peacefully demonstrating against the application of a presidential decree that posed a direct threat to the social and economic rights of hundreds of thousands of Belarusians.

3. The severe interventions by State agents in March alarmed the international community[1] and reminded partners of Belarus of the cyclical aspect of the repression in the country. After taking some steps towards a relaxation of persecution, which might have been labelled as progress, the Government returned to the practice of silencing dissenting voices and targeting human rights activists and journalists, two categories of individuals that the Government has been harassing over the past 23 years.

4. The ratification of the Convention on the Rights of Persons with Disabilities is a welcome move towards greater respect for the rights of a portion of Belarusian society. The Special Rapporteur hopes that the provisions of the Convention will be translated quickly into domestic legislation, followed by timely compliance with reporting obligations.

5. The Special Rapporteur also welcomes the registration of the "Tell the Truth" movement in May 2017, after seven years of rejection.

6. In his most recent report to the Human Rights Council, the Special Rapporteur analysed the inter-agency plan for the implementation of selected recommendations of the Working Group on the Universal Periodic Review and of treaty bodies. The plan is being promoted by the President of Belarus, Alyaksandr Lukashenko,[2] and the Ministry of Foreign Affairs as a human rights national action plan and, therefore, an important step in demonstrating to international partners the Government's commitment to human rights. However, the actual document is hardly more than a checklist of 100 gratuitous promises, many of which are not action-oriented and largely ignore entrenched human rights concerns.

[1] See www.ohchr.org/en/newsevents/pages/displaynews.aspx?newsid=21375&langid=e; https://eeas.europa.eu/headquarters/headquarters-homepage/22974/statement-spokesperson-recent-protests-and-arrests-belarus_en; www.osce.org/office-for-democratic-institutions-and-human-rights/305781; https://eeas.europa.eu/headquarters/headquarters-homepage/23471/events-run-and-during-todays-freedom-day-belarus_en; www.osce.org/office-for-democratic-institutions-and-human-rights/307476; http://assembly.coe.int/nw/xml/News/News-View-EN.asp?newsid=6565&lang=2&cat=137; www.gov.uk/government/news/foreign-office-statement-on-demonstrations-in-belarus; www.auswaertiges-amt.de/EN/Infoservice/Presse/Meldungen/2017/170328_BM_BLR.html?nn=479796; https://eeas.europa.eu/delegations/belarus/24141/eu-belarus-coordination-group-met-third-time_en .

[2] See http://eng.belta.by/president/view/address-of-belarus-president-alexander-lukashenko-to-osce-pa-plenary-session-in-minsk-103056-2017/.

7. The release of political prisoners in late 2015, although not accompanied by the reinstatement of their rights, was a positive gesture. However, the practice of arresting and jailing opponents has not stopped. There are new political prisoners in Belarus, and criminal cases that were initiated during the crackdown of March 2017 are still ongoing and could result in jail sentences.

8. The Special Rapporteur is pleased to report that the Government of Belarus did not oppose his participation in the annual session of the Parliamentary Assembly of the Organization for Security and Cooperation in Europe (OSCE), which took place from 5 to 7 July 2017 in Minsk. The Special Rapporteur thanks the President of the Assembly, Christine Muttonen, and the Secretary-General of the Assembly, Roberto Montella, for the invitation to the session, and the Vice-President of the Assembly, Kent Härstedt, for organizing and leading a seminar on the situation of human rights in Belarus, which provided the mandate holder the opportunity to go to the country and speak there as Special Rapporteur for the first time since his appointment.

9. While welcoming the Government's tolerant approach, the Special Rapporteur does not consider the fact that the Government permitted him to participate in that session to be a form of cooperation, given that the Ministry of Foreign Affairs issued a statement during his stay stressing that such permission was granted solely because of the OSCE Parliamentary Assembly and did not represent openness on the part of the authorities of Belarus towards the mandate. In fact, communications sent by the Special Rapporteur to the authorities of Belarus, including requests to visit the country, remain unanswered.

10. In his previous report to the General Assembly (A/71/394), the Special Rapporteur analysed the impact of the electoral system and the absence of an effective Parliament on the human rights of citizens in Belarus in the context of the parliamentary elections of September 2016, during which two members of the opposition were allowed to become members of Parliament. The Special Rapporteur welcomed the absence of aggression by law enforcement bodies.

11. Alas, the events of March 2017 demonstrated that the Government has returned to its practices of mass arrests and fabricated accusations. The Special Rapporteur believes that it is important to assess the character of governance in Belarus in order to understand the reasons for its unchanging negative impact on the situation of human rights and the logic behind the cycles of repression in the country. The unique features of governance in Belarus may explain why the country has not experienced any tangible progress on its overall human rights record for more than 20 years. Despite the apparent readiness of the Government to discuss certain human rights issues, such as trafficking and the death penalty, the entrenched system of oppressive laws and strict control of the daily lives of people have made the Government undependable when it comes to committing to positive changes in the field of human rights.

12. The fact that, shortly after the demonstrations took place in February and March 2017, the President decided to suspend the collection of the "anti-parasitism" tax shows that he and his administration may listen to public desperation when it reaches a certain threshold. In the Special Rapporteur's view, however, the largely oppression-centred official reaction to the events demonstrates that governance in Belarus is designed to protect the consolidation of powers in the hands of the President and his administration rather than to provide venues for alternative ideas.

13. In the present report, therefore, by outlining the most recent cases, the Special Rapporteur analyses the impact of the authoritarian type of governance, which Belarus has been experiencing since Mr. Lukashenko was first elected President, on the situation of human rights.

B. Methodology

14. For the preparation of his reports, the Special Rapporteur collects as much information as possible from various sources, including the authorities of Belarus, civil society actors inside and outside Belarus, international and regional human rights mechanisms and the diplomatic community. During his trip to Belarus mentioned above, the Special Rapporteur was able to obtain first-hand information from activists, attend a parallel civil society forum on the reception of the OSCE report of 2011 on the Moscow Mechanism on Human Dimension[3] and visit a courthouse during the trial of a human rights activist.[4] While preparing the present report, the Special Rapporteur noted the meagre academic literature available on the subject. The report provides some historic perspectives to make the reader aware of certain aspects of the emergence of the country's present-day governance.

15. The Special Rapporteur regrets that the Government does not cooperate with the mandate holder. He again reaffirms his readiness to engage, even gradually, with the Government, beginning with the issues that both acknowledge as human rights concerns.

II. Evolution of authoritarian governance in Belarus

16. Since assuming power in 1994, the President has swept all branches of power under the presidential administration and his own personal command, not gradually but through sudden steps. The Special Rapporteur has described the interference of the executive branch with the legislative and judicial branches in Belarus in all his reports.

17. Mr. Lukashenko, who ran as an outsider against the former President, Vyacheslav Kebich, was elected President in June 1994. His deliberate attitude as a countryman, his rhetoric about the negative effects of the end of the Soviet Union, under which Belarus was one of the wealthiest republics, and his reputation as an irreproachable person, gained through his position as Chair of the parliamentary anti-corruption commission, earned him the sympathy of the electorate. At that time, the electoral system in Belarus was widely acknowledged as enabling human rights, and the elections were seen as fair and free. Similarly, the political spectrum was characterized by relative pluralism, and the media covered the campaigns of all candidates in a reasonably balanced manner.

18. The Constitution of Belarus, the drafting of which began in 1993, was adopted by the Supreme Soviet on 15 March 1994. Article 6 provides for the principle of separation of powers: "State bodies, within the limits of their authorities, shall act independently and cooperate with one another, and restrain and counterbalance one another." In fact, however, the extent of the powers of the President under the Constitution of 1994 was already large. As head of the executive, the President was entitled to nominate and dismiss ministers without the approval of Parliament, appoint judges, declare a state of emergency with the approval of Parliament and veto legal acts. The President also had the power to block the legislative process for draft laws that would affect the finances of the State, as such laws can be examined only with the consent of the President (art. 99).

19. The President sought to consolidate his power soon after his election. In May 1995, he held his first referendum, which was approved by a massive majority, granting the Russian language the status of an official language, changing some

[3] See https://spring96.org/files/misc/parallel-cs-forum-resolution_minsk_4-july-2017_eng.pdf.

[4] See www.advocatenvooradvocaten.nl/12753/belarus-trial-against-oleg-volchek/.

State symbols to resemble those of the Soviet period and strengthening relationships with the Russian Federation. The deliberate anchoring of the country in values of the past, which much of the population valued for its apparent stability, had the effect of averting more future-oriented proposals. In fact, what remained of the opposition was and continues to be labelled as the resurgence of pro-Nazi movements that arose during the Second World War.

20. A second referendum took place in November 1996, weeks after a failed impeachment procedure against the President. The aim of the referendum was to reinforce the already extensive powers of the President and to extend his term by another two years. The constitutional amendments transferred the prerogatives of the legislative branch to the President. The Supreme Soviet was replaced by a bicameral parliament, the lower chamber of which had a limited number of fields of competence (art. 97.2), while all the upper chamber's 64 members were either nominated by the President or elected through a process involving pre-approval by the President. As a result of the referendum of 1996, presidential decrees apply in any field of competence and have the force of law, the President may abolish any act of the Government (art. 84.25) and the authority of Parliament to appoint members of the Constitutional Court and the Central Election Commission has been transferred to the President.

21. In 1997, the President further eviscerated the role of Parliament by creating a national bill-drafting centre, under the authority of the President and empowered to propose laws. Such power is, by the Constitution, reserved to the lower chamber of Parliament. To the Special Rapporteur's knowledge, the Constitutional Court has not dealt with the incongruity.

22. The referendum also inflated the powers of the President in relation to the judicial branch, allowing him to nominate all regular court judges and dismiss them at any point. The President nominates the Chair and deputies of the Supreme Court and the Chair and half the judges of the Constitutional Court, which was a particular target of the 1996 referendum. A number of protections provided for in the Constitution of 1994 were reduced, namely, legal sanctions against any interference in the activities of judges are now applicable only in the case of "direct or indirect pressure on the Constitutional Court or its members in connection with the execution of constitutional supervision". The protections against arbitrary arrest or prosecution were abolished. In addition, the right granted by the Constitution of 1994 to the General Prosecutor and to a minority of 70 members of Parliament to submit a request to the Constitutional Court for a ruling was removed.

23. Despite the anti-democratic content of the referendum of 1996, it was approved by a reported 70 per cent of voters, and even if the results were fraudulent, as reported by all international observers, the Special Rapporteur does not doubt that a majority of Belarusians indeed voted in favour of such a change of regime.

24. In 2004, the President further consolidated his power through the holding of a referendum on allowing him to run for another term as President and eliminating the two-term limit envisaged in the Constitution. The European Commission for Democracy Through Law warned that the referendum was driven by the personal interest of the President.[5]

25. Since 1996, no legal change, by either decree or law, has loosened the concentration of powers in the hands of the President and his administration. Combined with a reorganization of civil and military security forces,[6] the

[5] See www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2004)029-e.

[6] See Alexander Feduta, *Lukashenko: Politicheskaya Biografiya* (Moscow, Referendum, 2005); Pavel Sheremet and Svetlana Kalinkina, *Sluchainiy Prezident* (Moscow, 2004).

President's control over Parliament and the judicial system, including the Constitutional Court, has steered Belarus towards an authoritarian system of governance.

26. The systemic human rights violations in Belarus reported by the Special Rapporteur over the years have been committed by extremely centralized legal and administrative authorities, with the unveiled goal of the abolishment of any remaining guarantees of those rights, in the name of efficiently running the Government.

III. Absence of effective separation of powers, misuse of democratic institutions and their implications for human rights

27. The eradication of the separation of powers in the Constitution of 1994, as a result of the amendments adopted in 1996 and 2004, led to an admittedly authoritarian presidential regime. In the present section, the Special Rapporteur discusses the implications of the lack of democratic structures in Belarus on the human rights of the population.

28. The separation of powers is one of the conditions for the realization of the rule of law, as it allows for the constitutional and legal liability and accountability of the executive for abusive acts. It is also a condition for democratic change, through free and fair elections resulting in a Parliament that reflects the aspirations of the community.

29. The uptake of legislative power by the executive branch, chiefly the President, and the absence of the effective separation of powers in Belarus make the rule of law ineffective in the country. Consequently, no basic right can be guaranteed. Generations of citizens have had to live without independent institutions that can protect their rights. The right to a fair trial cannot exist in a judicial system in which members are designated and removed by the executive branch. Since the constitutional amendments of 1996, the Constitutional Court has only on rare occasions put on its agenda acts adopted by the President or Parliament, and only those on non-controversial issues. Similarly, the work of Parliament in producing legal texts has remained marginal, and focused only on issues authorized by the President.

30. Presidential Decree No. 409 of 12 September 2011, which established the Investigative Committee, further strengthened the control exercised by the executive branch over the activities of the population. The Investigative Committee was created by merging the investigative units of the Ministry of Internal Affairs, the Office of the Public Prosecutor and the State Control Committee. The President stated in 2013 that the Committee had been established "as an independent authority".[7] However, the Committee reports directly to the President, which raises concerns about the autonomy of the body. On 22 May 2017, when he received a report of the Chair of the Investigative Committee, the President, referring to an investigation opened against a local representative of the executive, declared that the President's consent was needed to start an investigation into a person included in the President's personnel pool.[8] The executive branch can discretionally stop or launch investigations without independent scrutiny or the possibility of appeal. The level of supervision of the President over the investigation forces of Belarus and the

[7] See http://sk.gov.by/en/istoria-sledstvenih-organov-en/.

[8] See http://president.gov.by/en/news_en/view/report-of-chairman-of-investigative-committee-ivan-noskevich-16232/.

absence of any effective counter-power are therefore destined to hamper the corrective effect expected from the judiciary.

31. The Special Rapporteur notes that the authoritarian regime in Belarus is not actively questioned by the majority of the population. To the contrary, the paralysing effect of a long absence of democratic governance in Belarus, combined with fears, heightened by the authorities through the Government-guided media, of democratization processes in the Central and Eastern European region, closes venues for discussions of the President's record on human rights and other issues. Large-majority votes are used to mock and discourage the opposition, further closing off opportunities for discontent to be expressed. The recent recognition of the "Tell the Truth" movement and the token election of two opposition members during the parliamentary elections of September 2016 may be regarded precisely as not an opening to opponents, but demonstrations by the President that he is in full control of the election processes. Conducting elections and referendums has therefore become a technical element of the policies used to seal the Government's self-legitimization.

32. Many formal aspects of a democracy can be found in Belarus: elections are held regularly, there is a judicial system and a Constitutional Court, people may travel more or less freely, Internet is accessible, and the country ratifies treaties and engages with select United Nations human rights mechanisms. The analysis over the years of the reality of all those aspects demonstrates, however, that the use made of such entities and processes is purposefully counter-democratic. The requirements of democratic accountability are manifestly ignored by the authorities. For example, the Office for Democratic Institutions and Human Rights of OSCE has to make the same recommendations after each election, advocating free and fair elections, because the Government continues not to apply the recommendations. The rejection of recommendations by United Nations mechanisms, as analysed by the Special Rapporteur in his report to the Human Rights Council in 2016 (A/HRC/32/48), functions as part of the deterrents to creating opportunities for human rights progress.

33. In the Special Rapporteur's view, the adoption of the inter-agency plan is of the same nature. While it is promoted as progress towards the realization of human rights in Belarus, a careful analysis of the plan (see A/HRC/35/40, paras. 27-31) shows that it not only does not address systemic human rights shortcomings in Belarus, but also reaffirms that only activities that enhance the Government's approach can be viewed as human rights activities.

IV. Impact on human rights of governance through the concentration of powers

34. The building up of the authoritarian regime in Belarus has been inevitably accompanied by a restrictive environment for the enjoyment of rights and freedoms. As individual liberties are perceived as a threat to the executive branch, it has adopted laws and practices that in fact deprive citizens of the rights enshrined in instruments ratified by Belarus.

35. The Special Rapporteur received extensive reports of violations of human rights perpetrated chiefly by law enforcement officials in the wake and the aftermath of the demonstrations of February and March 2017, as well as reports on issues entrenched in the system of governance of Belarus. Such reports show that human rights violations are systemic and occur regardless of massive unauthorized demonstrations.

A. Freedom of opinion and expression and freedom of the media

36. The level of control of the authorities over what citizens should know, think and express and over what the media are authorized to report on has hardly any equivalent in Europe. Before Mr. Lukashenko was elected President, Belarus enjoyed a rather free speech and media environment, similar to most countries of Central Europe after the collapse of the Soviet Union.

37. Since 1994, however, when powers were concentrated into the hands of the President and his administration, Belarus has become the only European country where no privately owned broadcast media outlets are licensed with nationwide coverage. The country has developed a special system of executive-branch warnings issued to the media on coverage issues, with a legal effect of closure in the case of repeat warnings. The so-called administrative courts, where such decisions may be appealed, do not adjudicate the complaints on merit, but merely probe whether the authorities acted within the jurisdiction provided to them by the media laws.

38. In addition, a series of laws have been adopted since 1994 that severely restrict the exercise of the freedom of opinion and expression by citizens of Belarus, thus blocking any venue for public discussion on policies imposed by the executive branch.

39. Despite repeated calls from the international community (see A/HRC/32/48), the authorities, unchallenged by any branches of government, have not improved the legal framework governing the exercise of the freedom of opinion and expression, nor eased practices of State agents in that regard.

40. Notable provisions that are regularly used by the authorities to try to silence critical voices are articles 367 (defamation of the President), 368 (insult of the President) and 369 (insult of public officials) of the Criminal Code. Articles 367 and 368 were redacted in 2001, before the presidential elections of that year, with the aim of criminalizing critical voices. They provide for up to five years of imprisonment and are used ex officio by the judicial system, without the President having to launch a complaint himself. Those disproportionate provisions intentionally create fear among those who would endeavour to express their discontent with the authorities, especially on corruption issues. The Special Rapporteur notes that, in 2003, the Constitutional Court recommended that Parliament amend those articles to bring them more in line with the practices of other States. However, the recommendation remains ignored almost 15 years later, showing that the legislative branch, under the control of the executive, does not act to comply with the Constitution of Belarus.

41. Following their participation in the demonstrations in February and March 2017, at which they held a banner criticizing the President, two members of the "European Belarus" opposition movement faced criminal charges based on article 368 of the Criminal Code, which were subsequently dropped.[9] Similar charges were brought against an entrepreneur and head of a trade union after 2.5 months of investigations.[10] The Special Rapporteur underlines the undue length of and the massive means devoted to investigations by the Investigative Committee of charges under article 368.

42. Artistic expression continues to be interpreted by the authorities as a danger. In that context, a concert by a famous journalist and musician, Ales Dzianisau, that

[9] See http://spring96.org/en/news/87367.

[10] See http://spring96.org/en/news/87524.

had been planned to take place in Minsk was banned by the City Executive Committee.[11] The activist has been a regular target of the authorities.

43. Individuals who think that military parades are not necessary in Belarus were publicly deprecated by a representative of the Ministry of Defence as successors of the Nazis.[12]

44. Independent-minded journalists have been harassed for more than two decades and cannot work without an accreditation, which is difficult to obtain from the authorities. Activists and journalists who work outside the State system have to face administrative and judicial hurdles, which take the form of repeated summonses and heavy fines.

45. The mass demonstrations of February and March 2017 were an occasion for the authorities to remind journalists to refrain from covering unauthorized events of any magnitude. According to a report of the Belarusian Association of Journalists, as many as 123 violations of rights of journalists were recorded, including 96 detentions.[13] Law enforcement officials in plain clothes started their crackdown on 12 March, making 18 arrests, compared with 13 for the whole of 2016. Many journalists were taken to court and fined for having illegally produced mass media materials[14] and for sharing content with foreign media.[15]

46. The President himself engages in media matters, showing preferences for certain media over others.[16] He repeatedly stresses that media professionals have "civic responsibility".[17] Those who do not observe the official discourse are labelled as irresponsible and are used to justify the interference of the executive in media matters.

B. Freedom of association

47. Favouring tight control over individual and group activities, the authorities of Belarus have a strict interpretation of the freedom of association. On 26 January 1999, the President issued Decree No. 2 on regulation of the activities of political parties, trade unions and other public associations, and improvement of control over those activities. The Decree gave a short period, until 1 August 1999, for public associations to register or reregister under the supervision of a State commission for registration, the composition of which was approved by the President.

48. The registration of political parties and public associations is authorized by the Ministry of Justice, and the registration of local associations is authorized by local executive committees, leaving a margin for the executive branch not to register any public association that would criticize the authorities. No new party has been allowed to register since 2000. The policy of refusing numerous applications for registration continued in 2016.[18]

[11] See https://charter97.org/en/news/2017/7/25/257547/.

[12] See https://zapraudu.info/by/kollektivnoe-obrashhenie-v-sud-podpisat/.

[13] See https://baj.by/en/analytics/media-problems-belarus-between-present-and-future.

[14] See www.svaboda.org/a/28425222.html; http://belsat.eu/news/zhurnalistku-belsatu-volgu-chajchyts-ashtrafavali-na-40-bazavyh-velichynyau/; http://spring96.org/en/news/87106.

[15] See http://spring96.org/en/news/86878.

[16] See http://president.gov.by/en/news_en/view/president-attends-the-plenary-meeting-of-the-19th-world-congress-of-the-russian-press-16663/.

[17] See http://president.gov.by/en/news_en/view/greetings-to-personnel-of-sovetskaya-belorussiya-newspaper-16777/.

[18] See https://drive.google.com/file/d/0Bwh6rJZ1JOWsV0lUV3JiOUx3UkE/view.

49. The Act of 4 October 1994, amended in 2011, on public associations focuses exclusively on associations that are not political parties or trade unions. It provides for the right to establish associations (art. 2), which should operate in accordance with the Constitution, the above-mentioned Act and other pieces of legislation. Article 6 of the Act even provides for the non-interference of State authorities in the operations of public associations. However, the article also provides that non-governmental organizations must not interfere in the affairs of State authorities. That provision is equivalent to the automatic silencing of critical voices among non-governmental organizations and has become one of the main triggers for society-wide self-censorship.

50. It is not the Act on public associations or Presidential Decree No. 2 that contains provisions on the consequences for non-governmental organizations and political parties, be they registered or not, of conducting unauthorized activities, but the much-criticized article 193-1 of the Criminal Code, which provides for imprisonment of up to two years for any public activity that has not been authorized. The Special Rapporteur, together with other human rights mechanisms, has repeatedly called for that provision to be repealed and for a shift from the permission-based system of registration of public associations to a notification-based regime. The Special Rapporteur points in particular to the opinion on the compatibility with universal human rights standards of article 193-1 of the Criminal Code, adopted by the Venice Commission in October 2011, in which it is clearly stated that the article "restrict[s] the right to freedom of association in its essence" and "is incompatible with a democratic society".[19] The Special Rapporteur considers the opinion to still be valid, especially as article 193-1 is used to eliminate the freedom of association and to legitimize repression.

51. The Special Rapporteur notes the trend among a number of non-governmental organizations to register as institutions of social entrepreneurship, as that type of association has been met with less apparent scrutiny by the authorities. Since the entry into force of Presidential Decree No. 5 of 31 August 2015, and in particular the amendment thereto of 4 March 2016, non-governmental organizations have stepped up their efforts to mobilize funding through social media platforms.[20] While such a trend is positive for the social embeddedness of those organizations, the permissiveness demonstrated by the authorities towards non-governmental organizations working on single social issues reveals a strategy to diminish the number of non-governmental organizations working on civil and political issues or to depoliticize their agenda in exchange for being allowed to function.

52. The overall system for the registration of associations has remained unchanged since 2011. The slight increase, by 2.5 per cent, in the number of registered non-governmental organizations in 2016 compared with 2015 does not reflect any easing of the hurdles. The Special Rapporteur continued to receive reports of refusals to register associations on petty grounds. Before documents for the registration of associations are submitted, the name of the institution should be pre-approved by the Ministry of Justice. In March 2016, the "For Statehood and Independence" non-governmental organization, a founder of which is a Nobel Prize in Literature winner, Svetlana Alexievich, was denied registration because the acronym representing its name was not exactly the same on the list of the founders as on the registration form.

53. Even non-governmental organizations wishing to work on social issues, such as gender, often face a content-based rejection. In June 2016, the Mahilyow

[19] See www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2011)036-e.

[20] See www.actngo.info/article/organizacii-grazhdanskogo-obshchestva-belarusi-8-tendenciy-2016-goda.

Regional Administration of Justice refused to register the "Rose" centre for gender studies, a public association, on the basis that recognizing gender discrimination in Belarus would contradict the norms on equality of men and women, which are set forth at the legislative level. The non-governmental organization's intention to conduct gender-specific monitoring, collection and analysis of data on social, economic and other fields was deemed to contradict existing legislation, as the "implementation of gender policies is carried out by respective authorized State organs".[21]

C. Freedom of peaceful assembly

54. The mass repression during the events of February and March 2017 and the fate of the marches planned to commemorate 1 May were emblematic of the restrictions imposed by article 23-34 of the Code of Administrative Offences and article 369-3 of the Criminal Code. All assemblies were strictly controlled by the executive committees, which, when they authorized the gatherings, included in their decisions so many unacceptable requirements to the organizers that the authorizations became unworkable.

55. The authorities exercised their repression in a preventive manner[22] by arresting activists before the marches took place. They also arbitrarily arrested participants during and after the demonstrations. The judicial and administrative systems of Belarus proved to be ready to deal with the high numbers of people arrested, since as many as 900 individuals who participated or wished to participate in the demonstrations were tried in only three weeks.[23] Dozens of individuals were "preventively" detained and fined, making them unavailable for the demonstrations planned for 25 March and 1 May 2017. The sentences condemning participation in earlier demonstrations served as a deterrent for future participation in peaceful assemblies.

56. To that same effect, the authorities harassed prominent figures of civil society. For instance, a famous video blogger, Maksim Filipovich, spent more than a month in prison, serving no fewer than three convictions.[24]

57. The repression targeted not only individuals but also entities, in particular political parties and similar movements. The BPF Party, the United Civil Party and the "For Freedom" movement received warnings from the Ministry of Justice for having participated in the mass gathering on 25 March 2017 in Minsk. The Supreme Court has the power to liquidate a political party one year after the issuance of a warning by the Ministry of Justice if the warning has not been addressed by the party (art. 30, Act on Political Parties).

58. Trade unions also have to comply with the obligation to obtain an authorization to organize peaceful demonstrations. The Committee of Experts on the Application of Conventions and Recommendations of the International Labour Organization, in its report of 2017, expressed its regret, not for the first time, that the Government of Belarus had failed to provide its comments on the new allegations of refusal of authorization for demonstrations by trade unions and to reply to all outstanding allegations of refusal and had not provided any information

[21] See https://drive.google.com/file/d/0Bwh6rJZ1JOWsV0lUV3JiOUx3UkE/view.
[22] See http://spring96.org/en/news/86878.
[23] See http://spring96.org/en/news/86596.
[24] See http://spring96.org/en/news/86878.

on the steps taken to investigate the cases of refusal with the organizations concerned.[25]

59. The Special Rapporteur underlines the role of the Government-dependent judicial system in the repression of the right to peaceful assembly. For example, a court in Navapolatsk, which had begun to look into the arguments of a human rights defender against the local authorities' decision not to authorize a demonstration, decided to abandon the consideration of the case after a representative of the same authorities claimed, falsely, that the court lacked jurisdiction.[26] Similarly, a judge in Mahilyow arbitrarily decided to conduct behind closed doors the hearing of an activist who had called for participation in an unauthorized demonstration on 1 May.[27] Courts also rejected the appeals of the political parties that had received warnings from the Ministry of Justice. In general, the lack of goodwill on the part of the judiciary with respect to considering complaints about violations of constitutional rights was patent.[28] Condemnations continue to be made, as shown by the sentences of administrative detention handed down against three activists after the OSCE Parliamentary Assembly.

60. The Special Rapporteur personally witnessed the interaction of restrictive laws and the lack of independence of the judiciary. At the Frunzyenski Court in Minsk on 4 July, the Special Rapporteur was in the audience at the trial of a long-time human rights activist, Oleg Volchek, who was accused of participating in the demonstrations in March. The charge was based solely on a claim by an anonymous police agent and was produced by the prosecution many weeks after the demonstrations. Mr. Volchek was first sentenced to a 13-day prison term in absentia and, after his lawyer filed a complaint, a retrial was ordered while he was still abroad. His defence consisted of stating that he was not in Minsk at the time of the demonstrations. Mr. Volchek named his witnesses and informed the judge of their presence in the room. Even though Mr. Volchek's statement should have prompted an inquiry into the trustworthiness of the charge, the judge questioned the witnesses' integrity, assuming that they had wilfully not presented themselves to the prosecution before the court session. It turned out that they could not have done so because neither Mr. Volchek nor his lawyer had been informed of the results of the reinvestigation of the case, and they were notified by the Court of the ongoing retrial only a couple of days before the July session.[29] The prosecutor did not dispute this fact, but still upheld the charge when questioned by the judge. The judge ordered a break, left the courtroom for 20 minutes and, after returning, refused to register the two witnesses and dismissed them without any explanation. The trial went on for six hours in the heat without air conditioning, and the judge ordered breaks and left the room every time before making procedural rulings. Eventually, Mr. Volchek, a veteran who was wounded in the Soviet Union's war in Afghanistan in the 1980s, fell ill from dehydration, blood hypertension and heart arrhythmia, lost consciousness for a few minutes and was carried away by an emergency car. However, the judge did not postpone the trial and sentenced Mr. Volchek in absentia to a hefty fine for the original charge of participating in the demonstration.

[25] See www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_543646.pdf.

[26] See http://spring96.org/en/news/86878.

[27] See http://spring96.org/en/news/87106.

[28] See http://spring96.org/be/news/86998.

[29] See www.advocatenvooradvocaten.nl/12753/belarus-trial-against-oleg-volchek/.

D. Torture and ill-treatment

61. The use of torture and ill-treatment in Belarus to obtain so-called confessions and intimidate or silence opponents was widespread until the beginning of the 2010s. A number of cases of torture and ill-treatment that led to the death of the victim are pending before international mechanisms, while the judicial system of Belarus still refuses to thoroughly investigate such allegations. The Investigative Committee of Minsk decided, in June 2017, to stop the investigation into the death of Aleh Bahdanau, which occurred in January 2016 while he was in detention.

62. The authorities of Belarus seem to have restricted the use of torture by law enforcement agents. As another example of the cyclical aspect of repression in Belarus, the events in February and March 2017 gave occasion for State agents to resort to torture. The Special Rapporteur deplores this development.

63. Reports show that a number of individuals who took part in the demonstrations against Presidential Decree No. 3 were subjected to ill-treatment during their arrest and detention, which, the Special Rapporteur recalls, was arbitrary. Reports also show that some cases could amount to torture, such as those involving beatings, the use of electroshock, the privation of water, the refusal of medical care, the obligation to wear a bag on the head during interrogation, and wakening at night. Reports point in particular to the detention facilities of the State Security Committee in Minsk. A famous human rights defender from the "Viasna" non-governmental organization, Tatsiana Reviaka, submitted a complaint to the Office of the Prosecutor in Minsk about the conditions in which she had been arrested on 26 March and her subsequent treatment on police premises, where she had suffered physical and psychological abuse. Other activists were reportedly beaten by the police and had their hands bound tight with handcuffs for several hours. The situation in the detention facility of the executive committees of Homiel and Tsentralny districts seemed to have been particularly bad, as detainees were deprived of heating or running water to take a shower for several days. Owing to the magnitude of the degrading and ill-treatment and the high number of alleged cases of torture, a human rights defender, Ales Bialiatski, sent a public complaint to the Prosecutor General.[30] The Prosecutor General, however, refused to conduct an inquiry. This exemplifies, in the Special Rapporteur's opinion, the unwillingness of the State authorities to acknowledge systemic issues.

64. The Special Rapporteur is aware that, following the complaints of many individuals about the conditions in which they were detained on police premises, inspections were launched by the Office of the Prosecutor, notably in Slutsk district, and, as a consequence, certain improvements were noted. However, the efforts to address some shortcomings were not made in a concerted manner, although the extent of the complaints, both substantively and geographically, would command a nationwide review of conditions of detention, especially following the massive crackdown of March 2017.

65. Similarly, the Special Rapporteur is aware of a case in which the decision of the Investigative Committee not to investigate allegations of ill-treatment was appealed with success.[31] The complainant and his wife, however, were subsequently harassed by State officials, who asked questions about their relationship with the non-governmental organization that had helped them to formulate the appeal.

66. Confessions obtained through torture, ill-treatment or harassment may sometimes lead to the signing of cooperation agreements, making the victim

[30] See http://spring96.org/be/news/86998.

[31] See http://spring96.org/en/news/87524.

beholden to the State Security Committee and, therefore, obliged to pass on sensitive information on the activities of fellow human rights defenders or activists.[32]

67. The Special Rapporteur remains concerned about the situation of a Russian citizen, Murad Amriev, who was deported by the authorities of Belarus to the Russian Federation despite several calls not to do so, owing to the high risk that Mr. Amriev would be tortured there.

E. Death penalty

68. Article 24 of the Constitution stipulates that, until it is abolished, the death penalty may be used as an exceptional penalty for grave crimes. The crimes punishable by the death penalty are set out in the Criminal Code.

69. The Government of Belarus has, for a long time, been the only Government in Europe and among the former republics of the Soviet Union to apply deprivation of life as a legal punishment. On countless occasions, United Nations mechanisms and human rights organizations have, in vain so far, decried this and called on the country to join the growing human rights consensus regarding the need to respect the right to life, even in the case of grave crimes.

70. The authorities of Belarus have an ambiguous approach to the abolition of the death penalty. The President, in his address to the OSCE Parliament Assembly in July 2017, stated that "not a single State can go against the will of its people when the overwhelming majority voted to preserve it in a referendum. No single civilized European country can do so". At the same time, he added that Belarus needed time to abolish the death penalty and that he was sure that the authorities of Belarus would gradually find a solution to the issue.

71. Although the abolition of the death penalty is envisaged in the Constitution, there is no time frame for it to become a reality. The conferences on the issue organized by the country, with the support of partners, had no outcome in terms of a potential decision to abolish capital punishment.

72. The President often refers to the "will of the people of Belarus", as expressed in the multi-question referendum of 24 November 1996 on ending capital punishment. Voters rejected the proposal to abolish capital punishment by more than 80 per cent. However, at the time of the referendum, the maximum length of imprisonment was 15 years. The Criminal Code was amended in December 1997 to introduce life sentences. The Special Rapporteur therefore believes that citing the referendum as a reason not to abolish capital punishment is unfounded.

73. Numerous Heads of State or Government have decided on their own to end capital punishment, showing leadership. In a country where practically all legal aspects of life are decided by the head of the executive, the absence of a clear expression by the President of Belarus of his determination to put an end to capital punishment in fact constitutes an absolute barrier. Observers see this lack of resolve not only as unrelated to the merit of the issue, but also as tied to the fact that many of the President's autocratic entitlements in the Constitution were also obtained through the same referendum to which he refers as an obstacle to abolition.

74. At the time of reporting, the Special Rapporteur was aware of three death sentences handed down since the beginning of 2017. Aliaksei Mikhalenia was sentenced to death by the regional court of Homiel on 17 March. The Supreme Court rejected his appeal of the sentence on 30 June. Ihar Hershankou and Siamion

[32] See http://belarusdigest.com/story/the-belarusian-kgb-recruiting-from-civil-society/.

Berazhny were sentenced to death on 21 July by the regional court of Mahilyow. Siarhei Vostrykau was executed in Belarus sometime in April. Two individuals, Kiryl Kazachok and Aliaksei Mikhalenia, were on death row awaiting execution at the time of reporting. The Special Rapporteur once again urges the authorities to at least commute death sentences into life sentences.

F. Arbitrary arrest and detention and political prisoners

75. In his previous report to the General Assembly, the Special Rapporteur pointed to what appeared to be a change in the modus operandi of the repression of unauthorized gatherings (A/71/394, para. 77). The systematic arbitrary arrest of individuals participating in public activities critical of public policies was replaced, without any change made in the underlying laws, by the systematic application of heavy fines, the payment of which was so difficult for most of those fined that they either ended up in prison for non-payment of the fine or saw their property confiscated.

76. The scale and organization of the mass arrests in the wake of the demonstrations in February and March 2017 had not been seen since December 2010, when the authorities cracked down on protesters and sent hundreds of them to jail. According to the Criminal Procedure Code of Belarus, the authorities are not obliged to give reasons for detention, which is contrary to article 9 of the International Covenant on Civil and Political Rights.

77. The premeditated nature of the crackdown in 2017 is shown by the fact that hundreds of peaceful demonstrators were arbitrarily arrested in a matter of days throughout the country, often by law enforcement officials in plain clothes. As in 2010, human rights activists' homes were raided, and trade union members were brutally interrogated and harassed and their information technology equipment was seized.

78. The Special Rapporteur holds the view that the cyclical recurrence of the massive physical abuse of people who decided to exercise their rights, accompanied by the taking of new political prisoners, is partly caused by and partly the aim of the centralization of decision-making and the unchanged depriving character of the legal system, as opposed to a protection system. Those laws are not consistent with basic human rights standards, given that, based on their literal meaning, a huge part of the population would be punishable for unauthorized public activities in any given period. In fact, a large part of the population would be de jure criminals based on a strict reading of the laws criminalizing unauthorized public activities. Of course, keeping political opponents and Government-independent activists incarcerated at all times would make the claim of Belarus that it adheres to human rights standards indisputably void. The criminal laws are designed to cover public life while creating fear among large segments of the population, thereby laming otherwise normal day-to-day civic activities. The authorities sometimes relent in their use and then cyclically demonstrate the strength of centralized power to the population, maintaining the restrictive order through harassment, arbitrary arrest and short-term detention.

79. The authorities made use of various provisions to try to silence human rights defenders, activists and ordinary citizens, including through repeated periods of administrative detention, house arrests and criminal charges claiming hooliganism, the organization of riots or the creation of illegal armed groups. The executive branch, assisted by the judiciary, used the latter two charges to preventively arrest and subsequently fine prominent figures of the opposition, such as the leader of the United Civil Party, Anatol Liabedzka, the co-leaders of the Belarusian Christian

Democracy, Pavel Seviarynets and Vital Rymasheuski, the Chair of the "For Freedom" movement, Yury Hubarevich, and a former presidential candidate, Mikalai Statkevich. Members of non-governmental organizations were also arbitrarily arrested and charged, including Pavel Levinau of the Belarusian Helsinki Committee (one of the few human rights non-governmental organizations accredited by the Government) and as many as 57 individuals, including foreign nationals, during the raid on the premises of "Viasna" on 25 March 2017, when the non-governmental organization was holding a meeting on how to conduct peaceful assemblies.

80. Most of the individuals detained were released after several hours without charges and without any explanation as to why they had been released. Others were sentenced to administrative detention ranging from 3 to 25 days (the maximum length) to prevent them from participating in subsequent rallies. However, 16 individuals were arrested and detained in pretrial detention facilities of the State Security Committee and the Ministry of the Interior, on the fabricated grounds that they were creating an illegal armed group. They were all released by the end of June, but the case has not been closed.

81. The Special Rapporteur is particularly concerned by the case of Dzmitry Palienka, an environmental and civil rights activist who was arbitrarily arrested on 29 April 2016, after participating in a peaceful demonstration to promote cycling. Mr. Palienka has been the subject of several arbitrary detentions since 2014.[33] The two-year sentence handed down against him in 2016 had been suspended, but the suspension was overturned by a Minsk court in April 2017 on the grounds that he was guilty of "minor hooliganism" (art. 17.1, Code of Administrative Offences) for shouting "Shame" when the verdict in a protester's case was announced.

82. Another critic of the Government remains in prison in Belarus. On 10 July 2015, Mikhail Zhamchuzhny was sentenced to 6.5 years of imprisonment under a strict regime for "incitement to disclosure of official secrets". His sentence also bans him from holding positions relating to the implementation of organizational and administrative duties for a period of two years and eight months.

83. The Special Rapporteur is concerned about reports of the arbitrary detention and harassment of prominent trade unionists and members of trade unions. The Belarusian Independent Trade Union of Radio and Electronic Industry Workers and the Belarus Independent Trade Union were at the forefront of the protests against Presidential Decree No. 3 and collected tens of thousands of signatures. At the beginning of August 2017, State officials conducted searches in the offices and private homes of several members of those trade unions and confiscated their information technology equipment. The Chair and the chief accountant of the Trade Union of Radio and Electronic Industry Workers, Henadz Fiadynich and Ihar Komlik, were arrested on 2 August on the fabricated grounds of tax evasion through the opening of bank accounts in foreign countries, leading to personal enrichment. Mr. Fadynich was released the same day, while Mr. Komlik remained in detention. The charges against both activists are still open. The Special Rapporteur shares the opinion of the Observatory for the Protection of Human Rights Defenders that their arrest was purely politically motivated, as the same charges were used in 2011 against Mr. Bialiatski, who was sentenced to 4.5 years of detention, which was recognized as arbitrary by the Working Group on Arbitrary Detention.[34]

[33] See https://charter97.org/en/news/2016/7/27/215528/.

[34] See http://spring96.org/en/news/87741.

G. Economic and social rights

84. Belarus is the only country of the former Soviet Union that did not undergo a process of privatization of key sectors of the economy. The Special Rapporteur, however, does not believe that Belarus is immune to oligarchy and corruption and their consequences for the enjoyment of human rights.

85. The demonstrations of February and March 2017 were symptomatic of the disconnect between the claim by the authorities that the centralized economy is able to create well-being and the social reality of hundreds of thousands of people whose lives are affected by harsh economic policies.

86. It is estimated that some 470,000 individuals in Belarus were directly exposed to the "anti-parasitism" tax introduced by Presidential Decree No. 3, the aim of which was to penalize those who work fewer than 183 days but are not registered as unemployed. The "anti-parasitism" act reflects a resurgence of the equity of Soviet times whereby the State is supposed to provide work for all, and those who do not have a job are therefore regarded as living at the expense of others and endangering social cohesion. Such a law is logistically inconceivable without extreme centralization and State ownership of the economy.

87. In the Special Rapporteur's opinion, the "anti-parasitism" act and tax were partly designed to target not only "entrepreneurial dissidents" who carry out unregistered economic activities but also members of civil society who are working in unauthorized positions, such as non-governmental organization and trade union activists, independent journalists and artists.

88. The official unemployment rate is 1 per cent, which is a highly unrealistic number given the economic situation of the country.[35] The illusion of the absence of unemployment and, therefore, of the absence of poverty, regarding which no data are available, is parallel to the illusion of the absence of dissenting political views conveyed by the pluralism-free Parliament.

89. Trade unions, as explained above, are subject to the overall regulation concerning the establishment of public organizations. The Committee of Experts on the Application of Conventions and Recommendations recalled in its report of 2017 that such a restrictive approach discourages trade unions from registering. The Special Rapporteur notes that the Government of Belarus has been ignoring the Committee's recommendations to change the law so as to liberalize the constitution of trade unions and hence promote labour and social rights.

90. Belarus receives the worst mark ("no guarantee of rights") for respect for workers' rights in the Global Rights Index of the International Trade Union Confederation.[36]

91. The Special Rapporteur continued to receive reports of violations of economic and social rights. He recalls the tragic case of the schoolchild, Viktoryia Papcenia, who died after being hit by a truck while collecting potatoes as part of her *subbotnik*, a form of forced labour introduced in the Soviet era whereby State employees and students are legally encouraged but in practice obliged to perform pro bono communal or production work. According to the verdicts in the case, only two of the 13-year-old girl's teachers and the driver of the truck were found responsible for the accident. The Special Rapporteur recalls that such forced labour is organized by the local branches of the Government (executive committees) and that the unfortunate girl was collecting potatoes on a State-owned farm.

[35] See www.ilo.org/ilostatcp/CPDesktop/?list=true&lang=en&country=BLR.

[36] See http://survey.ituc-csi.org/?lang=en.

H. Non-discrimination

92. Belarus has yet to adopt a specific anti-discrimination act that would penalize discriminatory acts against individuals on the grounds of their gender, race, ethnic group, sexual orientation, religious belief or mental or physical disability. It flows from the authoritarian nature of its governance that the executive branch both morally and legally retains the prerogative to define what constitutes "normal" and "non-mainstream". Large portions of society are effectively denied equal treatment or the specific positive treatment needed for the equal enjoyment of rights. The refusal to recognize differences and the related discrimination exemplify the executive branch's vision of a centrally guided, homogeneous Belarusian population, ostensibly based on "traditional values".

1. Gender

93. The Special Rapporteur refers to his most recent report to the Human Rights Council, which describes key elements of women's human rights in Belarus, as analysed by the Committee on the Elimination of Discrimination Against Women in October 2016.

94. The amount of discriminatory language used by high-ranking political figures testifies to the generally poor state of women's rights. The situation of women in the workplace is of particular concern. For several years, the Committee of Experts on the Application of Conventions and Recommendations has been pointing to the "historical attitudes towards the role of women in society along with stereotypical assumptions regarding women's aspirations" to explain the tendency among women to choose low-income occupations.[37] The Committee once again deplored the Government's lack of responses to its recommendations concerning equal remuneration. The Special Rapporteur underlines the Government's continuing disregard of issues relating to equal opportunities for school-age boys and girls and subsequent inequalities in the workplace.

2. Religious groups

95. Despite the fact that freedom to profess and practise any religious belief is granted by the Constitution, article 16 thereof prohibits religious activities that are "directed against the sovereignty of the Republic of Belarus, its constitutional system and civic harmony, or ... impede the execution of State, public and family duties by its citizens or are detrimental to their health and morality". The vague nature of the prohibition leaves enough space for the executive branch to interpret restrictions at its full discretion. In addition, restrictive provisions of the Act of 2002 on religion and the concordat of 2003 between the Belarusian Orthodox Church and the Government serve as additional bases for the Government to impose limits on religious freedom. Moreover, the privileged status and the increasing and "determining role" of the Belarusian Orthodox Church in the country are of concern, as they heighten religious discrimination.[38]

96. Religious groups have to register in order to be able to carry out any religious activities. All activities of unregistered groups are banned by law. Furthermore, prior authorization is needed for the organization of events beyond the premises of religious groups, including proselytizing. The Government is therefore continuing

[37] See www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_543646.pdf.

[38] See Department of State of the United States of America, "International religious freedom report for 2016: Belarus". Available from www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2016&dlid=268792#wrapper.

the practice of fining and detaining individuals involved in unauthorized events organized by faith groups. Complex registration requirements that include broad grounds for refusal remain one of the main obstacles to the conduct of religious activities. In addition, the registration process for minority religious groups requires the disclosure of their members, which may deter individuals from exercising their religious freedom. As a result, many religious groups are disinclined to register for fear of State persecution.

97. The Government continues to apply discriminatory policies to what they describe as "non-traditional religious groups". Registration is still being refused for several Protestant religious communities. The continuous denials of permission for Muslim and Protestant clergy and clergy of other "non-traditional faiths" to visit inmates in prison, which is not the case for clergy of the Belarusian Orthodox Church or the Roman Catholic Church, are a clear example of discrimination. In educational facilities, students' textbooks reflect a discriminatory attitude towards "non-traditional religious groups" that perpetuates stereotypes and intolerance.

V. Conclusions and recommendations

98. **The Special Rapporteur concludes that the assumption of virtually all powers by the executive branch, chiefly the President and the presidential administration, is one of the main structural reasons for both the systemic abuse of human rights and the cyclical waves of mass repression in the country. Although the Constitution provides for the separation of powers and respect for human rights, the reality is a monolithic power structure with laws and governance aimed at maintaining the concentration of powers and an absence of effective human rights guarantees. It also explains why positive changes can happen only temporarily and at the margins, while the core of the system of governance remains counter-democratic and erupts from time to time into massive crackdowns against those attempting to exercise their rights.**

99. **The absence of an effective Parliament, an independent judiciary, a national human rights institution compliant with the principles relating to the status of national institutions for the promotion and protection of human rights, a specific anti-discrimination law and a notification-based system of registration of public entities, as opposed to the existing permission-based system, forms the bedrock of the overall human rights policy in Belarus.**

100. **The severe crackdown following the peaceful demonstrations of February and March 2017 illustrated the cyclical nature of human rights violations in Belarus, characterized by an unchanging, permission-based, repressive legal framework, implemented by a guided judiciary and accompanied by repetitive acts of intimidation and harassment by law enforcement officials.**

101. **Despite repeated calls from various human rights mechanisms and from its partners over the past two decades to bring the law into line with its international human rights commitments and put an end to practices that violate those standards, the executive branch in Belarus has been solidifying the systemic restrictions of human rights, wary of tackling their core function of maintaining the entrenched power structure. The inter-agency action plan on the implementation of select recommendations of a few treaty bodies and the universal periodic review should be read against that background. The 100 activities listed therein, even if fully implemented, would not significantly improve the human rights record of Belarus.**

102. **In listing these deficiencies, the Special Rapporteur calls attention to the paradoxical fact that the very centralized governance structures in Belarus would readily offer themselves for an initial leap towards improvement in the human rights situation, even though sustaining the improvement would require the institutionalization of democratic power-sharing and the active participation of all political and civic forces concerned.**

103. **The Special Rapporteur encourages civil society actors and human rights defenders to continue their impressive work in a rather hostile environment. He calls once again on the authorities of Belarus to cooperate with the mandate, even in an incremental manner, and, in addition to the recommendations that he made in his previous reports, further recommends that the authorities of Belarus:**

(a) **Drop all charges against those who peacefully demonstrated against Presidential Decree No. 3, including those accused of having formed an illegal armed group;**

(b) **Abolish Presidential Decree No. 3, as it provides for discrimination against certain types of workers;**

(c) **Release the trade unionists and political activists currently held in custody and drop the charges against them, as they are politically motivated;**

(d) **Withdraw article 193-1 of the Criminal Code, which penalizes any public activity of non-registered organizations;**

(e) **Conduct a thorough review of all legislation and make it compliant with the human rights standards to which Belarus is a party;**

(f) **Engage constructively with the Committee on the Elimination of Racial Discrimination during its review scheduled for the ninety-fourth session of the Committee;**

(g) **Abolish the death penalty, or at least adopt a moratorium without further delay;**

(h) **Establish a national human rights institution that is compliant with the principles relating to the status of national institutions for the promotion and protection of human rights;**

(i) **Demonstrate to partners concrete progress on the systemic issues listed above;**

(j) **In that regard, consolidate the inter-agency action plan by involving human rights non-governmental organizations, even those that are not accredited, in its development and the monitoring of its implementation;**

(k) **Stop harassing human rights defenders, members of civil society and independent journalists.**